IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SALES TAX APPLICATION NO.1 OF 2006

M/s.Vicco Products (Bombay) Limited, 25, Jerbai Wadia Road, Parel, Mumbai 400 012 .. Applicant.

V/s.

The Commissioner of Sales Tax, Maharashtra State, Mumbai .. Respondent.

Mr.P.V. Surte for the applicant.
Mr.Vinay Sonpal for the respondents.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 23RD JUNE, 2006.

P.C. :

Rule. Rule returnable forthwith.

Mr.Sonpal, learned AGP waives service on behalf of the respondents.

2. Heard finally by consent of the parties.

3. This is an application at the instance of the assessee - manufacturer of 'Vicco Vajradanti' and 'Vicco Turmeric Ayurvedic Cream' seeking directions against the Maharashtra Sales Tax Tribunal, Mumbai ('the Tribunal') to seek reference of the substantial questions of law arising from the order of the Tribunal holding that the said products are capable of being used as tooth paste and tooth powder as such they are excluded from the purview of medical formulations and / or preparations.

3. The questions sought to be raised revolve around the interpretation of Entry No.C-I-24(1) appended to the Bombay Sales Tax Act, 1959.

4. Having heard rival parties, the question with regard to the interpretation of the said entry by itself constitutes substantial question of law. In this case, the following questions framed need consideration at the hands of this Court.

5. In the abvoe view of th matter, we direct the Tribunal to state the case and refer two questions given below for the opinion of this Court.

Substantial questions of law

"1. Whether the product known as 'Vicco Vajradanti' (Paste and Powder) are 'medicines', within the meaning of entry 24 of Schedule C Part I of the Bombay Sales Tax Act, 1959 or they fall under entry 36 of Schedule C, Part II of the Bombay Sales Tax Act, 1959 ?

2. Whether 'Vicco turmeric Ayurvedic Cream' is covered by entry 24 of Schedule C Part I which refers to medicines under the Bombay Sales Tax Act, 1959 or it falls under entry 86 of Schedule C, Part II of the Bombay Sales Tax Act, 1959 ?"

6. In the result, this application stands disposed of in terms of this order with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)